

09/458,897  
Page 8 of 12

RECEIVED  
CENTRAL FAX CENTER

JAN 08 2007

REMARKS

Applicant traverses all of the rejections in the Office Action and respectfully request reconsideration and passage of the claims to allowance for the following reasons. Claims 1 and 3-21 are currently pending and are rejected. Claims 1 and 11 are herein amended to further clarify the Applicant's claims. The amendments are fully supported by Applicant's specification on at least page 10, lines 6-8.

**Claims 1 and 3-21 patentable over Goldszmidt/Ohran under §103**

Claims 1 and 3-21 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,195,680 to Goldszmidt et al. ("Goldszmidt") in view of U.S. Patent No. 5,812,748 to Ohran et al. ("Ohran"). In addition, extensive reference was made in the rejections to U.S. Patent No. 5,918,017 to Attanasio et al. ("Attanasio"), which Goldszmidt incorporated by reference. The Applicant respectfully traverses the rejection.

According to MPEP §2143, to establish a *prima facie* case of obviousness under §103, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

The combination of Goldszmidt and Ohran fails to establish a *prima facie* case of obviousness, because the combination fails to teach or suggest all the claim elements. For example, the combination fails to teach or suggest the claimed concurrent processing of sub-parts of session-state data of the video session using a distributed managing module associated with each of the primary head-end controller and at least one secondary head-end controller.

501107-1

09/458,897  
Page 9 of 12

Amended claim 1 recites, *inter alia*, "wherein said executing said video session comprises concurrently processing sub-parts of session-state data of said video session using a distributed managing module associated with each of said primary head-end controller and said at least one secondary head-end controller".

Goldszmidt does not teach or suggest the claimed concurrent processing of sub-parts of session-state data of the video session using a distributed managing module associated with each of the primary head-end controller and at least one secondary head-end controller. The Examiner concedes this in the Office Action. (See Office Action, p. 5, II. 7-10) Moreover, Goldszmidt clearly teaches that when a connection fails an alternate server is connected. (See Goldszmidt, col. 8, l. 34 – col. 9, l. 47; FIG. 2(a) – 3(c), note **BOLD** arrows that indicate an active connection)

Furthermore, Ohran fails to bridge the substantial gap left by Goldszmidt because Ohran does not teach or suggest the claimed concurrent processing of sub-parts of session-state data of the video session using a distributed managing module associated with each of the primary head-end controller and at least one secondary head-end controller. Ohran is generally directed to a backup computer system that runs a special mass storage access program that communicates with a mass storage emulator program on the network file server. (See Ohran, abstract; col. 11, l. 51 – col. 12, l. 6; Fig. 7.) In other words, when one of the computer systems go down the other computer system may still access an entire identical copy of the data on the non-functioning computer's mass storage device without delay.

The claimed concurrent processing of sub-parts of session-state data of a video session is not the same as emulating a mass storage device on the backup computer for the primary computer. To illustrate, the Applicants' invention may concurrently process sub-parts of session-state data using a distributed managing module. (See Applicant's specification, p. 10, II. 6-8) In contrast, Ohran teaches that each mass storage device is a mirror of the other mass storage device. (See Ohran, col. 12, II. 20-22) Therefore, at best even if Ohran is broadly interpreted, Ohran only teaches retrieving entire copies of data from two different computers when both computers are running. Unlike the Applicant's invention that teaches concurrently processing sub-parts of session-state data using a distributed managing module, Ohran only teaches

501107-1

09/458,897  
Page 10 of 12

retrieving entire copies of data from either mass storage device that are mirrors of one another.

Furthermore, Ohran does not disclose any video sessions. As a result, the combination of Goldszmidt and Ohran lacks the claimed concurrent processing of sub-parts of session-state data of the video session using a distributed managing module associated with each of the primary head-end controller and at least one secondary head-end controller. Therefore, claim 1 is patentable over the combination of Goldszmidt and Ohran under §103.

Claims 3-10 depend, directly or indirectly, from claim 1 and, thus, inherit the patentable subject matter of claim 1, while adding additional elements and further defining elements. Therefore, claims 3-102 are also patentable over the combination of Goldszmidt and Ohran under §103 for at least the reasons given above with respect to claim 1.

Claim 11 recites, *inter alia*, "wherein at least one of said managing modules is a distributed managing module and processes sub-parts of said session-state data of said video session using at least two of said plurality of head-end controllers". For at least the same reasons given with respect to claim 1, claim 11 is also patentable over the combination of Goldszmidt and Ohran under §103.

Claims 12-21 depend, directly or indirectly, from claim 11 and, thus, inherit the patentable subject matter of claim 11, while adding additional elements and further defining elements. Therefore, claims 12-21 are also patentable over the combination of Goldszmidt and Ohran under §103 for at least the reasons given above with respect to claim 11.

### Official Notices

The Examiner has taken Official Notice at least with respect to claim 9. The Applicant respectfully traverses each Official Notice taken by the Examiner. The Applicant respectfully submits that each Official Notice is erroneous at least because the claim limitations which are rejected using the Official Notice are believed to be not well known at least within the context of the independent claims from which these limitations depend. In other words, it may not be well known to combine the allegedly

501107-1

09/458,897  
Page 11 of 12

well known methods with other methods recited in the respective claims or in other claims from which the respective claims may depend, such as for example, the combination of limitations recited in independent claim 1 and dependent claim 9.

The Examiner is respectfully requested to provide documentary evidence to substantiate each Official Notice (see MPEP 2144.03(C)). Without this documentary evidence, the Applicant respectfully submits that the Official Notices must be withdrawn.

501107-1

09/458,897  
Page 12 of 12

RECEIVED  
CENTRAL FAX CENTER

JAN 08 2007

CONCLUSION

For the foregoing reasons, Applicant respectfully requests reconsideration and passage of the claims to allowance. If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall, Esq. or Jimmy Kim at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: 1/8/07



Eamon J. Wall  
Registration No. 39,414  
Attorney for Applicant

PATTERSON & SHERIDAN, LLP  
595 Shrewsbury Avenue, Suite 100  
Shrewsbury, New Jersey 07702  
Telephone: 732-530-9404  
Facsimile: 732-530-9808

501107-1